

the price adjustment shall be a dispute under the Disputes clause.

[63 FR 55040, Oct. 14, 1998, as amended at 67 FR 49252, July 30, 2002; 71 FR 69495, Dec. 1, 2006]

215.408 Solicitation provisions and contract clauses.

(1) Use the clause at 252.215-7000, Pricing Adjustments, in solicitations and contracts that contain the clause at—

(i) FAR 52.215-11, Price Reduction for Defective Cost or Pricing Data—Modifications;

(ii) FAR 52.215-12, Subcontractor Cost or Pricing Data; or

(iii) FAR 52.215-13, Subcontractor Cost or Pricing Data—Modifications.

(2) Use the clause at 252.215-7002, Cost Estimating System requirements, in all solicitations and contracts to be award on the basis of cost or pricing data.

(3) Use the provision at 252.215-7003, Excessive Pass-Through Charges—Identification of Subcontract Effort, in solicitations (including task or delivery orders)—

(i) With a total value that exceeds the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4, except when the resulting contract is expected to be—

(A) A firm-fixed-price contract awarded on the basis of adequate price competition;

(B) A fixed-price contract with economic price adjustment, awarded on the basis of adequate price competition;

(C) A firm-fixed-price contract for the acquisition of a commercial item; or

(D) A fixed-price contract with economic price adjustment, for the acquisition of a commercial item; or

(ii) With a total value at or below the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4, when the contracting officer determines that inclusion of the provision is appropriate.

(4)(i) Use the clause at 252.215-7004, Excessive Pass-Through Charges, in solicitations and contracts (including task or delivery orders)—

(A) With a total value that exceeds the threshold for obtaining cost or

pricing data in accordance with FAR 15.403-4, except for—

(1) Firm-fixed-price contracts awarded on the basis of adequate price competition;

(2) Fixed-price contracts with economic price adjustment, awarded on the basis of adequate price competition;

(3) Firm-fixed-price contracts for the acquisition of a commercial item; or

(4) Fixed-price contracts with economic price adjustment, for the acquisition of a commercial item; or

(B) With a total value at or below the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4, when the contracting officer determines that inclusion of the clause is appropriate.

(ii) Use the clause with its Alternate I when the contracting officer determines that the prospective contractor has demonstrated that its functions provide added value to the contracting effort and there are no excessive pass-through charges.

[63 FR 55040, Oct. 14, 1998, as amended at 72 FR 20760, Apr. 26, 2007; 73 FR 27472, May 13, 2008]

215.470 Estimated data prices.

(a) DoD requires estimates of the prices of data in order to evaluate the cost to the Government of data items in terms of their management, product, or engineering value.

(b) When data are required to be delivered under a contract, include DD Form 1423, Contract Data Requirements List, in the solicitation. See PGI 215.470(b) for guidance on the use of DD Form 1423.

(c) The contracting officer shall ensure that the contract does not include a requirement for data that the contractor has delivered or is obligated to deliver to the government under another contract or subcontract, and that the successful offeror identifies any such data required by the solicitation. However, where duplicate data are desired, the contract price shall include the costs of duplication, but not of preparation, of such data.

[63 FR 55040, Oct. 14, 1998, as amended at 71 FR 69495, Dec. 1, 2006]

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AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36340, July 31, 1991, unless otherwise noted.

Subpart 216.1—Selecting Contract Types**§ 216.104-70 Research and development.**

Follow the procedures at PGI 216.104-70 for selecting the appropriate research and development contract type.

[71 FR 39007, July 11, 2006]

Subpart 216.2—Fixed-Price Contracts**216.203 Fixed-price contracts with economic price adjustment.****§ 216.203-4 Contract clauses.**

(1) Generally, use the clauses at FAR 52.216-2, Economic Price Adjustment—Standard Supplies, FAR 52.216-3, Economic Price Adjustment—Semistandard Supplies, and FAR 52.216-4, Economic Price Adjustment—Labor and Material, only when—

(i) The total contract price exceeds the simplified acquisition threshold; and

(ii) Delivery or performance will not be completed within 6 months after contract award.

(2) Follow the procedures at PGI 216.203-4 when using an economic price adjustment clause based on cost indexes of labor or material.

[71 FR 39007, July 11, 2006]

216.203-4-70 Additional clauses.

(a) *Price adjustment for basic steel, aluminum, brass, bronze, or copper mill products.* (1) The price adjustment clause at 252.216-7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products, may be used in fixed-price supply contracts for basic steel, aluminum, brass, bronze, or copper mill products, such as sheets, plates, and bars, when an established catalog or market price exists for the particular product being acquired.

(2) The 10 percent figure in paragraph (d)(1) of the clause shall not be exceeded unless approval is obtained at a level above the contracting officer.

(b) *Price adjustment for nonstandard steel items.* (1) The price adjustment clause at 252.216-7001, Economic Price Adjustment—Nonstandard Steel Items,